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CURRENT DECISIONS

ALIENS—ANTI-ALIEN LAND LEGISLATION—DISCRIMINATION AGAINST HEIRS OF CITIZENS.—The intestate, a citizen owning farm land, left as next of kin two nieces, who were citizens, and three nephews, non-resident aliens, who were English subjects residing in England. A statute precluded non-resident aliens from acquiring land in the state, with the exception that land acquired by an *alien* before the passage of the statute might descend to his heirs, who could sell within ten years or acquire absolute title by becoming a citizen. Neb. Rev. Sts. 1913, sec. 6273. The state brought an action to forfeit the shares of land claimed by the alien nephews. *Held*, that the land did not escheat, but passed to the nieces, and that the exception in the statutes had no application as the deceased was a *citizen*. *State v. Toop* (1922, Neb.) 186 N. W. 371.

Legislation preventing aliens from acquiring an interest in realty is now quite general. See COMMENTS (1922) 31 YALE LAW JOURNAL, 299. But the exception in the instant statute penalizes a *citizen* by depriving his heirs or devisees of rights permitted to the heirs or devisees of an *alien*. A similar statute has been given the same interpretation in Illinois. *Wunderle v. Wunderle* (1893) 144 Ill. 40, 33 N. E. 195. It is to be hoped that the case will be a stimulant to legislative action.

CONSTITUTIONAL LAW—FREEDOM OF SPEECH—STATE SEDITION ACT.—The defendant was convicted of violating a state statute making it unlawful to advocate the performance of any acts in opposition to organized government. N. M. Laws, 1919, ch. 140. On appeal, the statute's constitutionality was questioned. *Held*, that the statute was unconstitutional because violating the privilege of free speech guaranteed by the state constitution. *State v. Diamond* (1921, N. M.) 202 Pac. 988.

The court construed the statute as applying to everyone advocating a change in government regardless of whether the proposed change was to be accomplished by constitutional methods or not. Under this construction the decision is obviously sound. *Ex parte Meckel* (1920) 87 Tex. Cr. App. 120, 220 S. W. 81. Similar statutes in other states have been construed as punishing only those who advocated an overthrow of organized government by the exercise of force and violence; the statutes were, therefore, held to be constitutional. *State v. Tachin* (1919) 92 N. J. L. 270, 106 Atl. 145. The instant case is of more than ordinary interest because perhaps indicating "a return to normalcy" on the part of the courts after a somewhat prolonged period of wartime hysteria. For a discussion of the principles involved see Corwin, *Freedom of Speech and Press Under The First Amendment: A Résumé* (1920) 30 YALE LAW JOURNAL, 48; Hart, *Power of Government Over Speech and Press* (1920) 29 *ibid.* 410; COMMENTS (1920) 29 *ibid.* 337, 677; (1920) 30 *ibid.* 68; (1922) 31 *ibid.* 422.

CONTRACTS—EFFECT OF CLAUSE GIVING EXCLUSIVE SALE TO REAL ESTATE BROKER.—The defendant signed an agreement giving the plaintiff "the exclusive sale" of her property. About one month later the defendant sold the property to a purchaser whom she herself procured. The plaintiff sued for the stipulated commission. *Held*, (two judges *dissenting*) that the plaintiff could recover. *Harris v. McPherson* (1922, Conn.) 115 Atl. 723.

Where the owner gives the "exclusive agency" to sell, he does not impliedly promise to pay a commission if he sells the property himself. *Smith v. Preis* (1912) 117 Minn. 392, 136 N. W. 7; *Roth v. Thomson* (1919) 40 Calif. App. 208, 180 Pac. 656. There is a conflict, however, when the term "exclusive sale" is used. *Murphy v. Sawyer & Warford* (1913) 152 Ky. 645, 153 S. W. 991 (commission allowed); *Roberts v. Harrington* (1918) 168 Wis. 217, 169 N. W. 603 (commission not allowed). The consideration for the owner's promise in such